



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-13-00439-CV

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| Wise Electric Cooperative, Inc. | § | From the 97th District Court |
| v. | § | of Montague County (2007-0000383M-CV) |
| | § | September 17, 2015 |
| American Hat Company | § | Opinion by Justice Walker |

JUDGMENT

This court has considered the record on appeal in this case and holds that there was error in part of the trial court's judgment. It is ordered that the trial court's judgment is affirmed in part and reversed, severed, and remanded in part.

We reverse the trial court's award of \$2,578,067.00 to Wise Electric Cooperative, Inc. on its counterclaim for offset. We order that counterclaim severed from the judgment and we remand Wise Electric Cooperative, Inc.'s counterclaim to the trial court for further proceedings consistent with this opinion.

On remand, the trial court shall assign a new cause number to Wise Electric Cooperative, Inc.'s counterclaim for offset.

We affirm the portions of the trial court's judgment that American Hat Company have judgment against Wise Electric Cooperative, Inc. for \$18,437,160.06 in compensatory damages (\$13,385,969.37 in personal property damages plus \$5,100,379.00 in past lost-profits damages less a \$49,188.31 credit to Wise Electric), pre-judgment interest on that amount, post-judgment interest on that amount computed at the rate of 5% per year, and trial court costs.

It is further ordered that American Hat Company shall have and recover of and from Wise Electric Cooperative, Inc. and its surety National Union Fire Insurance Company of Pittsburgh, PA from the supersedeas bond, the amount of this judgment plus applicable prejudgment and post-judgment interest and court costs and from Wise Electric Cooperative, Inc. the remainder after computation of interest for which let execution issue.

Each party shall bear their own costs of appeal.

SECOND DISTRICT COURT OF APPEALS

By /s/ Sue Walker
Justice Sue Walker